

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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PATRICK JOSEPH CHAREST, #182 262	*	
Plaintiff,	*	
v.	*	2:07-CV-984-MHT
		(WO)
SIDNEY WILLIAMS, <i>et al.</i> ,	*	
Defendants.	*	

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**ORDER ON MOTION**

Before the court is Plaintiff's *motion for leave to proceed [to] amend[] complaint and/or joinder of new parties to current civil action*. Plaintiff seeks leave to amend his complaint to name "Does No. 1 & 2" as defendants in this cause of action.

The aforementioned designations do not adequately describe the persons to be sued so that such persons can be identified for service. *Dean v. Barber*, 951 F.2d 1210, 1216 (11th Cir. 1992). Moreover, the Federal Rules of Civil Procedure do not provide for fictitious party practice as it is incompatible with federal procedure. *See Rule 10(a) ("[i]n the complaint, the title of the action shall include the names of all the parties . . ."); New v. Sports and Recreation, Inc.*, 114 F.3d 1092, 1094 at n.1 (11<sup>th</sup> Cir. 1997) (fictitious party practice not permitted in federal court and plaintiff's failure to name parties required that court strike parties.); *Watson v. Unipress*, 733 F.2d 1386, 1388 (10<sup>th</sup> Cir. 1984)(plaintiff did not amend her complaint with identities of unknown defendants, and, therefore, no one directly involved in incident was named as a defendant). Accordingly, it is

ORDERED that Plaintiff's motion for leave to amend complaint and/or join new parties (*Doc. No. 59*) be and is hereby DENIED.

DONE, this 23<sup>rd</sup> day of April 2008.

/s/ Susan Russ Walker  
SUSAN RUSS WALKER  
UNITED STATES MAGISTRATE JUDGE